



Certification Reinstatement Reminders

Renee Mann

January 31, 2017

USDA Agricultural Marketing Service
National Organic Program





- Learn what to do when an operation sold organic product during suspension
- Learn how to submit the reinstatement and who to notify of the violation



7 CFR §205.662(f)(1) A certified operation whose certification has been suspended under this section may at any time, unless otherwise stated in the notification of suspension, submit a request to the Secretary for reinstatement of its certification. ...



7 CFR §205.662(f)(1) (continued) ...

The request must be accompanied by evidence demonstrating correction of each noncompliance and corrective actions taken to comply with and remain in compliance with the Act and the regulations in this part.



NOP Handbook

NOP 2605 Reinstating Suspended Operations

NOP Training

2016 (Reinstating Suspended Operations)

2014 (Accreditation Instructions Update)

NOP 2605 States...



“If the certifier detects evidence of willful violations during the reinstatement process, it should send this information to the NOP Compliance and Enforcement Division for a complaint investigation...

This includes evidence that an operation sold product as organic while suspended.”

Dairy Operation Example



Dairy Operation Example



- Dairy Operation
- Suspended for a total of 1 year
- Sold organic milk during suspension for 1 month
- Stopped sales upon realizing its mistake
- Sold milk conventionally for 11 months

Dairy Operation Example



What should the certifier do when it discovers an operation sold organic product during suspension?


- a) Gather information about the sales and suspend the reinstatement process. Submit the issue to NOP's Compliance and Enforcement Division immediately.
- b) Continue the reinstatement review and eventually submit the completed reinstatement to AIA, with a note about the violation.
- c) Gather enough information to issue a notice of noncompliance to the operation.


Dairy Operation Example



What should the certifier do when it discovers an operation sold organic product during suspension?

a) Gather information about the sales and suspend the reinstatement process. Submit the issue to NOP's Compliance and Enforcement Division immediately.

b)  Continue the reinstatement review and eventually submit the completed reinstatement to AIA, with a note about the violation.

c)  Gather enough information to issue a notice of non-compliance to the operation.

Certifier Responsibilities



1. Verify whether or not the operation sold organic product during suspension
 - Review sales and other records generated during suspension
 - Review labels used during suspension
 - Review marketing, including the company's website

Certifier Responsibilities



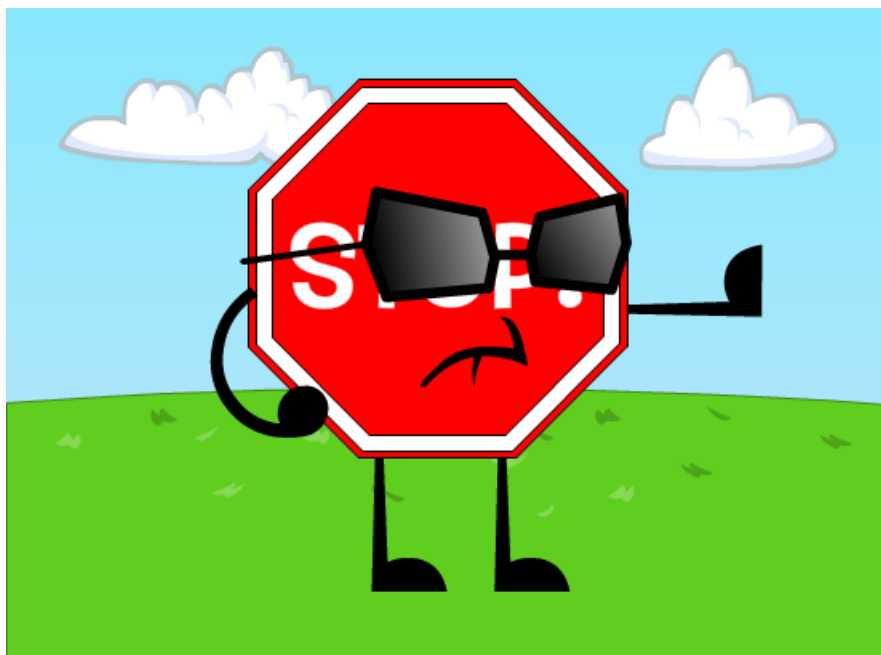
2. If the operation did violate, determine:

- How much product was sold?
- Dates when the product was sold
- Has the operation agreed to stop selling until certification reinstatement?

Requesting Reinstatement Refresher



**When the requesting operation
violated, or is actively violating**



Certifier Responsibilities



3. Contact the NOP Compliance and Enforcement Division (C&E) at NOPCompliance@ams.usda.gov

- Suspend the reinstatement review
- Do not issue adverse action notices to the client unless and until instructed by C&E
- Do not submit reinstatement to Secretary/NOP yet

Complaint Investigation

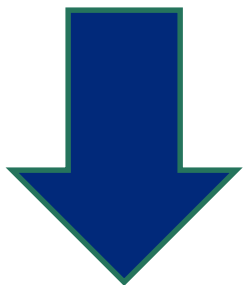


4. The NOP Compliance and Enforcement (C&E) division will open a complaint investigation.

C&E may work with the certifier to gather more information.



Willful Violation?



Yes



No

Complaint Investigation



It is a willful violation for an operation to sell, label, or represent product as organic during suspension.

See Instruction NOP 4002, *Enforcement of the USDA Organic Regulations: Penalty Matrix*: **“Since the operation was previously certified, such violations are considered knowing and willful.”**

Complaint Investigation



- 5a. If a **willful violation is confirmed**, NOP will take one or more enforcement actions:
- a) Deny the reinstatement
 - b) Issue adverse actions (or instruct certifier to do so)
 - c) Seek civil penalties (fines) through a settlement agreement
 - Agree to stop selling
 - Civil penalty (fine) that is appropriate

Complaint Investigation



5b. If a **willful violation is not confirmed**, C&E will send the completed investigation findings to NOP's Accreditation and International Activities Division (AIA).

AIA will inform the certifier of next steps:

- Continue the reinstatement
- Submit the completed reinstatement to AIA.

Dairy Operation Example



Resubmitting reinstatements



An operation that seeks reinstatement again must complete the entire reinstatement process.

- Submit a full and up-to-date OSP
- Undergo a full inspection of the entire operation



Notices of proposed suspension and notices of suspension should clearly explain their impact.

- Operation may not sell, label, or represent product as organic during suspension
- To become certified again, operation must seek reinstatement

Certifier Best Practices (cont.)



Use your OSP templates and/or review checklists to gather information about sales during suspension.

Did the operation have...

- Conventional sales?
- Organic sales?
- No sales?

Questions

